

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT E. REUTER, CHARLES P. ROZIER, JR.
and WALLACE C. BULLWINKLE

Appeal No. 2006-0936
Application No. 09/636,359

HEARD: April 6, 2006

Before FRANKFORT, MCQUADE and OWENS, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's rejection of claims 1, 2, 6 through 13, 15, 16, 52 and 54. Claims 17, 18, 55 and 56, the only other claims remaining in the application, stand allowed. Claims 3 through 5, 14, 19 through 51 and 53 have been canceled.

As indicated on page 1 of the specification, appellants' invention relates to a panel assembly for use in modular open office systems, and more particularly to a multi-functional structural beam arrangement which rigidifies an open framework

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used to support removable facing panels and modular office components. A further understanding of the invention can be derived from a reading of independent claims 1 and 52 on appeal, a copy of which claims appears in Appendix 1 attached to appellants' brief.

The sole prior art reference relied upon by the examiner in rejecting the appealed claims is:

Charman	4,631,881	Dec. 30, 1986
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Claims 1, 2, 6 through 13, 15, 16, 52 and 54 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Charman.

Rather than attempt to reiterate the examiner's commentary with regard to the above-noted anticipation rejection and the conflicting viewpoints advanced by appellants and the examiner regarding that rejection, we make reference to the answer (mailed July 27, 2004) for the examiner's reasoning in support of the rejection, and to appellants' brief (filed April 30, 2004) and reply brief (filed September 29, 2004) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art Charman patent, and to the respective

positions articulated by appellants and the examiner. As a consequence of our review, we have made the determination which follows.¹

Considering the rejection of claims 1, 2, 6 through 12, 15, 16, 52 and 54 under 35 U.S.C. § 102(b) as being anticipated by Charman, the only issue presented for our consideration on appeal is whether Charman shows a panel assembly for a modular office system wherein an "unobstructed cavity" is formed between the rigid frame assembly and each of the plurality of facing panels. Appellants contend that the panel assemblies of Charman require the use of horizontal braces (24, 25) and cable trays (80), thus teaching against an "unobstructed cavity." Our review of the Charman patent reveals that appellants' argument is not well founded.

We first direct appellants' attention to the embodiment seen in Figure 2 of Charman showing a screen or panel assembly having a rigid, load-carrying framework (15, 16, 17, 18) with a

¹ At this point we also note from our review of the record that it appears the amendment to claim 1 improperly contained in the appeal brief (Appendix 1) has been entered and considered by the examiner, although no formal notification of entry has been mailed by the examiner. Thus, we will treat claim 1 as amended, noting however that a proper amendment of the claim should be made in any further prosecution of the application before the examiner. It likewise appears that the examiner has entered and considered the paper styled as a "Reply to Examiner's Answer," although the paper mailed by the examiner on November 9, 2005 merely indicates that the reply "is acknowledged" and that no further response is provided.

plurality of support brackets (40, 41) attached thereto and having only one facing or cladding panel on each side so as to define a completely unobstructed cavity between the rigid frame assembly and each of the facing or cladding panels. Although not shown in Figure 2, the framework of that embodiment is also adapted to receive a crown or top cap member (95) like that shown in Figure 1. We additionally direct attention to the remaining disclosure of Charman (e.g., column 5, lines 23-30) explaining how the demountable cladding panels would be supported on the rigid framework with an outward clearance between the panels and the posts and rails of the framework so as to permit the passage of wiring into and out of the cavities within the panel assembly. In our opinion, the embodiment of the panel assembly seen in Figure 2 of Charman is fully responsive to that defined in, for example, claim 1 on appeal.

We also agree with the examiner that claims 1, 2, 6 through 12, 15, 16, 52 and 54 on appeal are readable on the embodiment of the panel assembly seen in Figures 1, 7 and 15 of Charman. Contrary to appellants' argued distinction, it is apparent from Figures 1, 7 and 15 that unobstructed cavities which permit wires to be run both vertically and horizontally within the panel assembly exist between the rigid frame assembly and each of the

facing or cladding panels (19, 20, 21), even if one or more cable trays (80) are used within one section of the panel assembly, e.g., in the center section behind facing panels (20) as shown in Figure 1. As is apparent from Figure 1, wires within a panel assembly can run in an unobstructed manner both vertically and horizontally within the panel assembly, i.e., horizontally as seen, for example, at the bottom and central portions of panel assembly (11) and vertically as seen at the left side of panel assembly (11). Note also that the cable trays (80) shown in Figure 1 include cut-outs (90) which would permit wires or cables to be run vertically within a panel assembly at locations other than the ends of the panel adjacent posts (15, 16). See Figure 6 of Charman for details of the cable trays (80).

As a further point, we observe that the cavities behind facing or cladding panels (19) and (20) of Charman's Figure 1 are completely unobstructed and that Figure 15 shows that the same could be true for the central area of the panel assembly covered by facing or cladding panels (20). Thus, Charman evidences an embodiment of panel assembly similar to that of Figure 1, but where all three of the areas behind the facing or cladding panels (19, 20, 21) are open and free to allow unobstructed passage of wires or cables both vertically and horizontally within each

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section of the panel assembly as well as within the panel assembly as a whole.

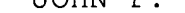
On the basis of the foregoing, we will sustain the examiner's rejection of claims 1, 2, 6 through 13, 15, 16, 52 and 54 under 35 U.S.C. § 102(b) as being anticipated by Charman, noting that the claims on appeal have not been separately argued. It follows that the decision of the examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

Charles E. Frankfort

CHARLES E. FRANKFORT
Administrative Patent Judge


JOHN P. MCQUADE
Administrative Patent Juror

JOHN P. MCQUADE
Administrative Patent Judge

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